

1                   A bill to be entitled  
2           An act relating to the "Florida Energy Diversity and  
3           Efficiency Act"; providing a short title; providing  
4           legislative intent; providing definitions; providing  
5           requirements for the authorization, certification, and  
6           siting of nuclear power plants; providing for a Nuclear  
7           Power Plant Siting Board; enumerating the related powers  
8           and duties of the Department of Environmental Protection,  
9           including rulemaking authority; requiring certain  
10          application, certification, and licensure of nuclear power  
11          plants; specifying applicability to certain nuclear power  
12          plants; providing for distribution of certain applications  
13          and schedules; directing the Division of Administrative  
14          Hearings to appoint an administrative judge to conduct  
15          certain hearings; providing for the determination of  
16          application and amendment completeness; requiring affected  
17          agencies to submit certain reports; providing requirements  
18          and procedures with respect thereto; requiring public  
19          notice of department recommendation and petition for  
20          certification hearings; providing for certification  
21          proceedings; providing requirements and procedures with  
22          respect thereto; authorizing the board to have final  
23          disposition on certification applications; providing that  
24          this act supersedes certain laws and regulations;  
25          providing for effect of certification; requiring certain  
26          public notice; providing responsibility for certain costs;  
27          providing for revocation or suspension of certification;  
28          providing for appeal and review of proceedings under the

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29 act; providing for compliance enforcement; requiring the  
30 department to make information available to the public;  
31 providing requirements and procedures for modification of  
32 certification; providing for supplemental applications for  
33 sites certified for ultimate site capacity; requiring  
34 certain fees; providing for deposit into the Florida  
35 Permit Fee Trust Fund and for subsequent distribution;  
36 requiring the Public Service Commission to hold hearings  
37 on determination of need; providing requirements and  
38 procedures with respect thereto; providing an effective  
39 date.

40  
41 WHEREAS, the extraordinary and unprecedented global  
42 increases in the cost of fuel oil and natural gas, coupled with  
43 the state's rapidly growing population and increasing demands  
44 for electric energy, have brought into sharp focus the need to  
45 enhance fuel diversity, and

46 WHEREAS, the world growth in demand for fuel oil and  
47 natural gas may continue to have further impact on the cost and  
48 supply of these resources, and

49 WHEREAS, the impact of Hurricane Katrina on supplies of  
50 natural gas and fuel oil further substantiates the need to alter  
51 the balance of fuel diversity in connection with the generation  
52 of electricity in the state, and

53 WHEREAS, the federal Energy Policy Act of 2005 encourages  
54 the siting and operation of new nuclear generation by providing  
55 tax and other incentives to reduce the costs of such plants, and

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56 WHEREAS, significant federally funded benefits and  
 57 incentives available under the federal Energy Policy Act of 2005  
 58 are available to only the first 6,000 megawatts of new advanced  
 59 nuclear reactor generating capacity licensed in the United  
 60 States, and

61 WHEREAS, operation of new nuclear power generation within  
 62 the state, particularly if such generation is eligible for the  
 63 tax and other incentives available under the federal Energy  
 64 Policy Act of 2005, will benefit the state's electric customers,  
 65 and

66 WHEREAS, existing provisions of the Florida Electrical  
 67 Power Plant Siting Act are inadequate to address the unique  
 68 issues of siting nuclear power generation within the state and  
 69 securing benefits under the federal Energy Policy Act of 2005,  
 70 NOW, THEREFORE,

71  
 72 Be It Enacted by the Legislature of the State of Florida:

73  
 74 Section 1. Short title.--This act may be cited as the  
 75 "Florida Energy Diversity and Efficiency Act."

76 Section 2. Legislative intent.--The Legislature finds that  
 77 the state, its residents, and its economy benefit from diverse  
 78 sources of fuel for the generation of electricity. Diversity of  
 79 fuel sources contributes to lower cost electricity and improved  
 80 reliability of electric supply, as the state will not be  
 81 dependent upon a particular source of fuel. Nuclear power plants  
 82 are important sources of electric generation that contribute to  
 83 the diversity of fuel sources within the state. The state has

84 five operating nuclear power plants that have operated reliably  
85 for the benefit of the state, and contributed a stable supply of  
86 electricity, with minimal impacts on the state's environment.  
87 The citizens of the state and electric power consumers have  
88 benefited from the operation of existing nuclear power plants  
89 within the state through low-cost and reliable energy  
90 production, electric grid reliability, and economic and  
91 environmental benefits. The Legislature further finds and  
92 declares it is in the public interest and critical to the  
93 health, prosperity, and general welfare of the state and its  
94 citizens to promote the expansion of nuclear generation by the  
95 siting of new nuclear power plants within the state so as to  
96 continue these benefits and further ensure the state's access to  
97 safe, reliable, efficient, and affordable electric service,  
98 thereby enhancing the state's economic future while protecting  
99 the environment. Recent events have shown the state's  
100 vulnerability to disruptions and price volatility in its  
101 electric supplies from the importation of natural gas and fuel  
102 oil from domestic and foreign sources. The federal Energy Policy  
103 Act of 2005 contains important provisions to promote the  
104 construction and operation of new nuclear power plants in the  
105 United States, including financial incentives for qualifying  
106 advanced nuclear power plants and incentives that are limited to  
107 the first 6,000 megawatts of advanced nuclear power plant  
108 generating capacity licensed in the United States. The state  
109 would benefit from timely siting of a qualifying advanced  
110 nuclear power plant as a source of low-cost electricity. In  
111 consideration of the present and predicted growth in electric

112 power needs in this state, and the potential for additional  
113 reliable sources of electricity from nuclear power plants, the  
114 Legislature finds that there is a need to develop a procedure  
115 for the selection and utilization of sites for electrical  
116 generating facilities utilizing nuclear energy and for the  
117 identification of a state position with respect to each proposed  
118 site and nuclear power plant. The Legislature recognizes that  
119 the selection of sites for new or expanded nuclear-powered  
120 electrical generating plants, including any associated linear  
121 facilities, will have a significant impact upon the welfare of  
122 the population, the location and growth of industry, and the use  
123 of the natural resources of the state. The Legislature finds  
124 that the efficiency of the permit application and review process  
125 at both the state and local level would be improved with the  
126 implementation of a process in which a permit application for  
127 nuclear power plants would be centrally coordinated and all  
128 permit decisions could be reviewed on the basis of adopted  
129 standards and recommendations of the deciding agencies. A  
130 centrally coordinated permitting process would also enhance the  
131 state's ability to become the location of a qualifying advanced  
132 nuclear power plant. Nuclear power plants may also be the  
133 location of or otherwise promote other public benefits for water  
134 supply projects, industrial development, or other activities.  
135 Legislation that addresses issues unique to the siting of  
136 nuclear power plants is required to encourage electric utilities  
137 to site and operate new nuclear power plant facilities within  
138 the state and to take advantage of provisions of the federal  
139 Energy Policy Act of 2005 that operate to reduce the overall

140 costs of such plants. It is the Legislature's intent that the  
 141 state shall promote and approve new nuclear-powered electrical  
 142 generating facilities that will reasonably balance the  
 143 increasing demands for reliable, cost-effective electric power  
 144 and decisions about electrical power plant location,  
 145 construction, and operation with the broad interests of the  
 146 public.

147 Section 3. Definitions.--As used in this act:

148 (1) "Act" means the Florida Energy Diversity and  
 149 Efficiency Act.

150 (2) "Agency," as the context requires, means an official,  
 151 officer, commission, authority, council, committee, department,  
 152 division, bureau, board, section, or other unit or entity of  
 153 government, including a regional or local governmental entity.

154 (3) "Amendment" means a change in the information provided  
 155 by the applicant to the application for certification made after  
 156 the initial application filing.

157 (4) "Applicant" means any electric utility as defined  
 158 under s. 366.8255(1)(a), Florida Statutes, city, town, county,  
 159 public utility district, electric cooperative, or joint  
 160 operating agency, or combination thereof, authorized under  
 161 Florida law to engage in the business of generating,  
 162 transmitting, or distributing electric energy to retail electric  
 163 customers in the state.

164 (5) "Application" means the documents required by the  
 165 department to be filed to initiate a certification proceeding  
 166 and shall include the documents necessary for the department to

167 render a decision on any permit required pursuant to any  
168 federally delegated or approved permit program.

169 (6) "Associated facility" means any facility that directly  
170 supports the construction and operation of the nuclear power  
171 plant, including, but not limited to, any substation,  
172 transmission line that connects the electrical power plant to an  
173 electrical transmission network, and right-of-way to which the  
174 applicant intends to connect.

175 (7) "Associated transmission line" means any new or  
176 upgraded transmission line that connects the electrical power  
177 plant to a electrical transmission network or right-of-way to  
178 which the applicant intends to connect, including, at the  
179 applicant's option, any proposed terminal or intermediate  
180 substation, substation expansion connected to the associated  
181 transmission line to be certified, or new transmission line or  
182 upgrade or improvement of an existing transmission line on any  
183 portion of the state's electrical transmission system necessary  
184 to support the generation injected into the system from the  
185 proposed nuclear power plant.

186 (8) "Board" means the Governor and Cabinet sitting as the  
187 Nuclear Power Plant Siting Board.

188 (9) "Certification" means the written order of the board  
189 approving an application in whole or with such changes or  
190 conditions as the board may deem appropriate.

191 (10) "Completeness" means that the application has  
192 addressed all applicable sections of the prescribed application  
193 format and that those sections are sufficient in  
194 comprehensiveness of data or in quality of information provided

195 to allow the department to determine whether the application  
 196 provides the reviewing agencies adequate information to prepare  
 197 the reports required by this act.

198 (11) "Corridor" means the proposed area within which an  
 199 associated linear facility right-of-way is to be located. The  
 200 width of the corridor proposed for certification as an  
 201 associated facility, at the option of the applicant, may be the  
 202 width of the right-of-way or a wider boundary, not to exceed a  
 203 width of 1 mile, within which the right-of-way will be located.  
 204 The area within the corridor in which a right-of-way may be  
 205 located may be further restricted by a condition of  
 206 certification. After all property interests required for the  
 207 right-of-way have been acquired by the applicant, the boundaries  
 208 of the area certified shall narrow to only that land within the  
 209 boundaries of the right-of-way.

210 (12) "Department" means the Department of Environmental  
 211 Protection.

212 (13) "Designated administrative law judge" means the  
 213 administrative law judge assigned by the Division of  
 214 Administrative Hearings pursuant to chapter 120, Florida  
 215 Statutes, to conduct the hearings required by this act.

216 (14) "Federally delegated or approved permit program"  
 217 means any environmental regulatory program approved by an agency  
 218 of the Federal Government so as to authorize the department to  
 219 administer and issue licenses pursuant to federal law,  
 220 including, but not limited to, new source review permits,  
 221 operation permits for major sources of air pollution, and  
 222 prevention of significant deterioration permits under the Clean



223 Air Act (42 U.S.C. ss. 7401 et seq.), permits under ss. 402 and  
 224 404 of the Clean Water Act (33 U.S.C. ss. 1251 et seq.), and  
 225 permits under the Resource Conservation and Recovery Act (42  
 226 U.S.C. ss. 6901 et seq.).

227 (15) "License" means a franchise, permit, certification,  
 228 registration, charter, comprehensive plan amendment, development  
 229 order, or permit as defined in chapters 163 and 380, Florida  
 230 Statutes, or similar form of authorization required by law,  
 231 including permits issued under federally delegated or approved  
 232 permit programs, but it does not include a license required  
 233 primarily for revenue purposes when issuance of the license is a  
 234 ministerial act.

235 (16) "Local government" means a municipality or county in  
 236 the jurisdiction of which the nuclear power generating facility  
 237 is proposed to be located, unless the term is expressly stated  
 238 to also include the local governments in the jurisdiction of  
 239 which associated facilities or associated transmission lines are  
 240 located.

241 (17) "Modification" means any change in the certification  
 242 order after issuance, including a change in the conditions of  
 243 certification.

244 (18) "Nonprocedural requirements of agencies" means any  
 245 agency's regulatory requirements established by statute, rule,  
 246 ordinance, or comprehensive plan, excluding any provisions  
 247 prescribing forms, fees, procedures, or time limits for the  
 248 review or processing of information submitted to demonstrate  
 249 compliance with such regulatory requirements.

250       (19) "Notice of intent" means that notice which is filed  
 251 with the department on behalf of an applicant prior to  
 252 submission of an application pursuant to this act and which  
 253 notifies the department of an intent to file an application.

254       (20) "Nuclear power generating facility" means the  
 255 nuclear-fueled electrical generating facility within a nuclear  
 256 power plant but, for purposes of this act, excludes any  
 257 associated facility or associated transmission line.

258       (21) "Nuclear power plant" means, for the purpose of  
 259 certification, any electrical generating facility using any  
 260 process involving nuclear materials, fuels, or processes and, at  
 261 the applicant's election, includes associated facilities and  
 262 associated transmission lines.

263       (22) "Preliminary statement of issues" means a listing and  
 264 explanation of those issues within the agency's jurisdiction  
 265 which are of major concern to the agency in relation to the  
 266 proposed nuclear power plant.

267       (23) "Public Service Commission" or "commission" means the  
 268 agency created pursuant to chapter 350, Florida Statutes.

269       (24) "Regional planning council" means a regional planning  
 270 council as defined in s. 186.503(4), Florida Statutes, in the  
 271 jurisdiction of which the nuclear power generating facility is  
 272 proposed to be located.

273       (25) "Right-of-way" means land necessary for the  
 274 construction and maintenance of an associated linear facility,  
 275 such as a railroad line, pipeline, or transmission line,  
 276 including associated facilities and associated transmission  
 277 lines. The typical width of the right-of-way shall be identified

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278 in the application. The right-of-way shall be located within the  
 279 certified corridor and shall be identified by the applicant  
 280 subsequent to certification in documents filed with the  
 281 department prior to construction.

282 (26) "Site" means any proposed location wherein a nuclear  
 283 power generating facility, or a nuclear power generating  
 284 facility alteration or addition resulting in an increase in  
 285 generating capacity, will be located within state jurisdiction.  
 286 The site may include appropriate buffers and may accommodate  
 287 facilities constructed by the applicant or an agency to further  
 288 an objective of an adopted water management district water  
 289 supply plan. For purposes of this act, the term "site" does not  
 290 include any associated facilities or associated transmission  
 291 lines.

292 (27) "Site certification" means the final order issued by  
 293 the board approving with any conditions or modifications a  
 294 proposed nuclear power plant.

295 (28) "State comprehensive plan" means that plan set forth  
 296 in chapter 187, Florida Statutes.

297 (29) "Water management district" means a water management  
 298 district, created pursuant to chapter 373, Florida Statutes, in  
 299 the jurisdiction of which the nuclear power plant is proposed to  
 300 be located.

301 Section 4. Department of Environmental Protection; powers  
 302 and duties enumerated.--The department shall have the following  
 303 powers and duties in relation to this act:

304 (1) To adopt rules pursuant to ss. 120.536(1) and 120.54,  
 305 Florida Statutes, to implement the provisions of this act.

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306       (2) To prescribe the form and content of the public  
307 notices and the notice of intent and the form, content, and  
308 necessary supporting documentation and studies to be prepared by  
309 the applicant for nuclear power plant site certification  
310 applications. The department shall utilize any existing site  
311 certification application forms and instructions adopted  
312 pursuant to the Florida Electrical Power Plant Siting Act, ss.  
313 403.501-403.518, Florida Statutes, until such new forms are  
314 adopted by the department.

315       (3) To receive applications for nuclear power plant site  
316 certifications and to determine the completeness thereof.

317       (4) To make, or contract for, studies of nuclear power  
318 plant site certification applications.

319       (5) To administer the processing of applications for  
320 nuclear power plant site certifications and to ensure that the  
321 applications are processed as expeditiously as possible.

322       (6) To require such fees as allowed by this act.

323       (7) To conduct studies and prepare a written analysis.

324       (8) To prescribe the means for monitoring continued  
325 compliance with terms of the certification.

326       (9) To notify all affected agencies of the filing of a  
327 notice of intent within 15 days after receipt of the notice.

328       (10) To issue, with the nuclear power plant certification,  
329 any license required pursuant to any federally delegated or  
330 approved permit program.

331       Section 5. Applicability and certification.--

332       (1) The provisions of this act shall apply exclusively to  
333 any nuclear power plant as defined in this act and to any

334 expansion in steam-generating capacity of any existing nuclear  
335 power plant. No construction of any new nuclear power plant or  
336 expansion in steam-generating capacity of any existing nuclear  
337 power plant may be undertaken after the effective date of this  
338 act without first obtaining certification as provided in this  
339 act. Except as otherwise provided in this subsection, this act  
340 shall not apply to any such nuclear power plant that is  
341 presently operating or that has, upon the effective date of this  
342 act, applied for a permit or certification under requirements in  
343 force prior to the effective date of such act.

344 (2) Except as provided in the certification, modification  
345 of nuclear fuels, internal-related hardware, or operating  
346 conditions not in conflict with certification, which increase  
347 the electrical output of a unit to no greater capacity than the  
348 maximum operating capacity of the existing electrical generator,  
349 shall not constitute an alteration or addition to generating  
350 capacity which requires certification pursuant to this act.

351 (3) The application for any related department license  
352 which is required pursuant to any federally delegated or  
353 approved permit program shall be processed within the time  
354 periods allowed by this act, in lieu of those specified in s.  
355 120.60, Florida Statutes.

356 Section 6. Distribution of application; schedules.--

357 (1) Within 7 days after the filing of an application, the  
358 department shall provide to the applicant and the Division of  
359 Administrative Hearings the names and addresses of those  
360 affected or other agencies entitled to notice and copies of the  
361 application and any amendments.

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362       (2) Within 7 days after the filing of an application, the  
363 department shall prepare a schedule of dates for submission of  
364 statements of issues, determination of completeness, and  
365 submittal of final reports from affected and other agencies,  
366 petition for a certification hearing, and other significant  
367 dates to be followed during the certification process, including  
368 dates for filing notices of appearance to be a party pursuant to  
369 section 11(2)(c). The schedule shall establish the date for  
370 conduct of any certification hearing as provided for in this  
371 act. This schedule shall be timely provided by the department to  
372 the applicant, the administrative law judge, all agencies  
373 identified pursuant to subsection (1), and all parties.

374       (3) Within 7 days after the department issues the names  
375 and addresses of those affected or other agencies entitled to  
376 notice and copies of the application and any amendments, the  
377 applicant shall distribute copies of the application to all  
378 agencies identified by the department. Copies of changes and  
379 amendments to the application shall be timely distributed by the  
380 applicant to all affected agencies and parties.

381       Section 7. Appointment of administrative law  
382 judge.--Within 7 days after receipt of an application, the  
383 department shall request the Division of Administrative Hearings  
384 to designate an administrative law judge to conduct the hearings  
385 required by this act. The division director shall designate an  
386 administrative law judge within 7 days after receipt of the  
387 request from the department.

388       Section 8. Determination of completeness.--

389       (1) Within 45 days after the distribution of the  
390 application or amendment to a pending application, the  
391 department shall file a statement with the Division of  
392 Administrative Hearings and with the applicant declaring its  
393 position with regard to the completeness of the application or  
394 amendment. The department's statement shall be based upon  
395 consultation with the affected agencies, which shall submit to  
396 the department recommendations on the completeness of the  
397 application within 30 days after distribution of the  
398 application.

399       (2) If the department declares the application or  
400 amendment incomplete, the applicant may withdraw the application  
401 or amendment. If the applicant declines to withdraw the  
402 application or amendment, the applicant may, at its option:

403       (a) Within 40 days after the department filed its  
404 statement of incompleteness or such later date as authorized by  
405 department rules, file additional information necessary to make  
406 the application or amendment complete. If the applicant makes  
407 its application or amendment complete within this time period,  
408 the time schedules under this act shall not be tolled by the  
409 department's statement of incompleteness.

410       (b) Advise the department and the administrative law judge  
411 that the information necessary to make the application or  
412 amendment complete cannot be supplied within the time period  
413 authorized in paragraph (a). The time schedules under this act  
414 shall be tolled from the date of the notice of incompleteness  
415 until the application or amendment is determined complete.

416 (c) Contest the statement of incompleteness by filing a  
417 request for a hearing with the administrative law judge within  
418 15 days after the filing of the statement of incompleteness. If  
419 a hearing is requested by the applicant, all time schedules  
420 under this act shall be tolled as of the department's statement  
421 of incompleteness, pending the administrative law judge's  
422 decision concerning the dispute. A hearing shall be held no  
423 later than 21 days after the filing of the statement by the  
424 department, and a final decision shall be rendered by the  
425 administrative law judge within 10 days after the hearing.

426 (3) (a) If the administrative law judge determines,  
427 contrary to the department, that an application or amendment is  
428 complete, all time schedules under this act shall resume as of  
429 the date of the administrative law judge's determination.

430 (b) If the administrative law judge agrees that the  
431 application is incomplete, all time schedules under this act  
432 shall remain tolled until the applicant files additional  
433 information and the application or amendment is determined  
434 complete by the department or the administrative law judge.

435 (4) If, within 30 days after receipt of the additional  
436 information submitted pursuant to paragraph (2) (a), paragraph  
437 (2) (b), or paragraph (3) (b), based upon the recommendations of  
438 the affected agencies, the department determines that the  
439 additional information supplied by an applicant does not render  
440 the application or amendment complete, the applicant may  
441 exercise any of the options specified in subsection (2) as often  
442 as may be necessary to resolve the dispute.



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443           Section 9. Preliminary statements of issues, reports, and  
444 studies.--

445           (1) Each affected agency identified in paragraph (2) (a)  
446 shall submit a preliminary statement of issues to the department  
447 and the applicant no later than 45 days after the distribution  
448 of the application. The failure to raise an issue in this  
449 statement shall not preclude the issue from being raised in the  
450 agency's report.

451           (2) (a) The following agencies shall prepare reports as  
452 provided below and shall submit them to the department and the  
453 applicant within 60 days after the application is determined  
454 complete:

455           1. The Department of Community Affairs shall prepare a  
456 report containing recommendations which address the impact upon  
457 the public of the proposed nuclear power plant, based on the  
458 degree to which the nuclear power plant is consistent with the  
459 applicable portions of the state comprehensive plan and other  
460 such matters within its jurisdiction.

461           2. The Public Service Commission shall prepare a report as  
462 to the present and future need for the electrical generating  
463 capacity to be supplied by the proposed nuclear power plant. The  
464 report shall include the commission's determination pursuant to  
465 section 24(4) and may include the commission's comments with  
466 respect to any other matters within its jurisdiction.

467           3. The water management district shall prepare a report as  
468 to matters within its regulatory jurisdiction.

469           4. Each local government in whose jurisdiction the  
470 proposed nuclear power plant, including associated facilities

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471 and associated transmission lines, is to be located shall  
472 prepare a report as to the consistency of the proposed nuclear  
473 power plant with all applicable local ordinances, regulations,  
474 standards, or criteria that apply to the proposed nuclear power  
475 plant, including adopted local comprehensive plans, land  
476 development regulations, and any applicable local environmental  
477 regulations adopted pursuant to s. 403.182, Florida Statutes, or  
478 by other means. Each local government in which the nuclear power  
479 generating facility is to be located shall also report on  
480 whether the proposed site for a nuclear power generating  
481 facility is located in a future land use category and a zoning  
482 district, as adopted by the local government and which were in  
483 effect on the date upon which the application was filed, which  
484 permits the location of a nuclear power generating facility. If  
485 the proposed site for a nuclear power generating facility is not  
486 located in a future land use category or zoning district which  
487 allows such a use, then the local government shall identify the  
488 future land use category or zoning district which would be  
489 required to allow the proposed nuclear power generating facility  
490 on the proposed site. If the proposed site for a nuclear power  
491 generating facility is not located in a future land use category  
492 or zoning district which allows such a use, the local government  
493 shall identify in its report any reasonable and available  
494 methods which the local government believes are necessary to  
495 make the proposed use of the site for a nuclear power generating  
496 facility consistent with the local comprehensive plan future  
497 land use category, in compliance with the local zoning code or

498 compatible with the existing land uses surrounding the proposed  
499 nuclear power generating facility site.

500 5. The Fish and Wildlife Conservation Commission shall  
501 prepare a report as to matters within its jurisdiction.

502 6. The regional planning council shall prepare a report  
503 containing recommendations that address the impact upon the  
504 public of the proposed nuclear power plant, as identified under  
505 the applicable provisions of the strategic regional policy plan  
506 adopted pursuant to chapter 186, Florida Statutes.

507 7. The Department of Health shall prepare a report as to  
508 matters within its jurisdiction.

509 8. The Department of Transportation shall prepare a report  
510 as to the impact of the proposed nuclear power plant and  
511 associated linear facilities on roads, railroads, airports,  
512 aeronautics, seaports, and other matters within its  
513 jurisdiction.

514 9. Any other agency, if requested by the department and  
515 upon approval of the assigned administrative law judge, shall  
516 also perform studies or prepare reports as to matters within  
517 that agency's jurisdiction which may be directly affected by the  
518 proposed nuclear power plant.

519 (b) Each report described in this subsection shall contain  
520 all information on variances, exemptions, exceptions, or other  
521 relief which may be required and any proposed conditions of  
522 certification on matters within the jurisdiction of such agency.  
523 For each condition proposed by an agency in its report, the  
524 agency shall list the specific statute, rule, or ordinance which  
525 authorizes the proposed condition. No condition of certification

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526 may be imposed upon a nuclear power plant project that is not  
527 directly required to ensure compliance with a specific statute,  
528 rule, or ordinance of an agency or the criteria set forth in  
529 this act.

530 (c) The agencies shall initiate the activities required by  
531 this section no later than 30 days after the complete  
532 application is distributed.

533 (3) The department shall prepare a written analysis, which  
534 shall be filed with the designated administrative law judge and  
535 served on all parties no later than 85 days after the  
536 application is found complete, but no later than 60 days prior  
537 to the scheduled date for the certification hearing if a  
538 petition for hearing were to be filed, and which shall include:

539 (a) A statement indicating whether the proposed nuclear  
540 power plant and proposed ultimate site capacity will be in  
541 compliance with the rules of the department and in compliance  
542 with a specific statute, rule, or ordinance of an agency  
543 identified in that agency's report.

544 (b) Copies of the studies and reports required by this  
545 act.

546 (c) The comments received by the department from any other  
547 agency or person.

548 (d) The recommendation of the department as to the  
549 disposition of the application, of variances, exemptions,  
550 exceptions, or other relief identified by any party, and of any  
551 proposed conditions of certification which the department  
552 believes should be imposed, including any conditions proposed by

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553 an agency which the department believes should be imposed in any  
554 final certification.

555 (e) The recommendation of the department regarding the  
556 issuance of any license required pursuant to a federally  
557 delegated or approved permit program.

558 (4) Except when good cause is shown, the failure of any  
559 agency to submit a preliminary statement of issues or a report,  
560 or to submit its preliminary statement of issues or report  
561 within the allowed time, shall not be grounds for the alteration  
562 of any time limitation in this act. Neither the failure to  
563 submit a preliminary statement of issues or a report nor the  
564 inadequacy of the preliminary statement of issues or report  
565 shall be grounds to deny or condition certification.

566 Section 10. Notice of department recommendation, petition  
567 for certification hearing.--

568 (1) The department and the applicant shall publish a  
569 public notice as provided for in this section, announcing the  
570 issuance of the department's recommendation on the application  
571 for site certification. The notice shall be published in the  
572 newspaper or newspapers in the jurisdictions where the proposed  
573 nuclear power plant and any associated facility are proposed to  
574 be located. The notice shall inform the public of the issuance  
575 of the department's report, the conclusion reached in that  
576 report, and the locations where the department's report and the  
577 application are available for public inspection.

578 (2) Within 14 days after its receipt of the department's  
579 recommendation or within 14 days after the newspaper notice of  
580 the department's recommendation, whichever occurs first, any

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581 party or any person whose substantial interests may be affected  
582 by the proposed nuclear power plant may file with the department  
583 a petition for a site certification hearing. The petition shall  
584 identify the person filing the petition, identify the  
585 substantial interests alleged to be affected, and identify with  
586 specificity those issues which the person alleges require the  
587 conduct of a certification hearing on the proposed nuclear power  
588 plant.

589 (3) Failure to timely file a petition for a certification  
590 hearing shall result in the department's recommendation becoming  
591 final and no longer subject to challenge or reversal in any  
592 proceeding, including, before the board. Only those conditions  
593 contained in the department's recommendation may be imposed upon  
594 the proposed nuclear power plant.

595 Section 11. Certification proceedings, parties,  
596 participants.--

597 (1) If any party or person whose substantial interests are  
598 affected files a petition for a certification hearing within 14  
599 days after publication of notice of the department's notice of  
600 its recommendation on the application for site certification, a  
601 certification hearing shall be held by the designated  
602 administrative law judge no later than 260 days from the date  
603 the application is filed with the department. However, an  
604 affirmative determination of need by the Public Service  
605 Commission pursuant to this act shall be a condition precedent  
606 to the conduct of the certification hearing. If a timely  
607 petition for a certification hearing is filed, the certification  
608 hearing shall be held at a location in proximity to the proposed

609 site. The certification hearing shall also constitute the sole  
610 hearing allowed by chapter 120, Florida Statutes, to determine  
611 the substantial interest of a party regarding any required  
612 agency license or any related permit required pursuant to any  
613 federally delegated or approved permit program. At the  
614 conclusion of the certification hearing, the designated  
615 administrative law judge shall, after consideration of all  
616 evidence of record, submit to the board a recommended order no  
617 later than 60 days after the date of the filing of the hearing  
618 transcript. In the event the administrative law judge fails to  
619 issue a recommended order within 60 days after the date of the  
620 filing of the hearing transcript, the administrative law judge  
621 shall submit a report to the board with a copy to all parties  
622 within 60 days after the date of the filing of the hearing  
623 transcript to advise the board of the reason for the delay in  
624 the issuance of the recommended order and of the date by which  
625 the recommended order will be issued.

626 (2) (a) Parties to the proceeding shall include:

- 627 1. The applicant.
- 628 2. The Public Service Commission.
- 629 3. The Department of Community Affairs.
- 630 4. The Fish and Wildlife Conservation Commission.
- 631 5. The Department of Transportation.
- 632 6. The water management district.
- 633 7. The department.
- 634 8. The regional planning council.
- 635 9. The local government.

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636 (b) Any party listed in paragraph (a) other than the  
637 department or the applicant may waive its right to participate  
638 in these proceedings. If such listed party fails to file a  
639 notice of its intent to be a party on or before the 90th day  
640 prior to the scheduled date for the certification hearing, such  
641 party shall be deemed to have waived its right to be a party.

642 (c) Upon the filing of a notice of intent to be a party  
643 with the administrative law judge and no more than 21 days after  
644 the date of publication of notice of filing of the application  
645 for site certification, the following shall also be parties to  
646 the proceeding:

647 1. Any agency not listed in paragraph (a) as to matters  
648 within its jurisdiction.

649 2. Any domestic nonprofit corporation or association  
650 formed, in whole or in part, to promote conservation or natural  
651 beauty; to protect the environment, personal health, or other  
652 biological values; to preserve historical sites; to promote  
653 consumer interests; to represent labor, commercial, or  
654 industrial groups; or to promote comprehensive planning or  
655 orderly development of the area in which the proposed nuclear  
656 power plant is to be located.

657 (d) Notwithstanding paragraph (e), failure of an agency to  
658 file a notice of intent to be a party within the time provided  
659 in this section shall constitute a waiver of the right of the  
660 agency to participate as a party in the proceeding.

661 (e) Other parties may include any person, including those  
662 persons enumerated in paragraph (c) who have failed to timely  
663 file a notice of intent to be a party, whose substantial



664 interests are affected and being determined by the proceeding,  
 665 and who timely file a motion to intervene pursuant to chapter  
 666 120, Florida Statutes, and applicable rules. Late intervention  
 667 pursuant to this paragraph may be granted by the designated  
 668 administrative law judge upon a showing of good cause that  
 669 excuses such late intervention and upon such conditions as he or  
 670 she may prescribe any time prior to 30 days before the  
 671 commencement of the certification hearing.

672 (f) Any agency, including those whose properties or works  
 673 are affected, shall be made a party upon the request of the  
 674 department or the applicant.

675 (3) When appropriate, any person may be given an  
 676 opportunity to present oral or written communications to the  
 677 designated administrative law judge. If the designated  
 678 administrative law judge proposes to consider such  
 679 communications, then all parties shall be given an opportunity  
 680 to cross-examine or challenge or rebut such communications.

681 (4) The designated administrative law judge shall have all  
 682 powers and duties granted to administrative law judges by  
 683 chapter 120, Florida Statutes, and this act and by the rules of  
 684 the department and the Administration Commission, including the  
 685 authority to resolve disputes over the completeness and  
 686 sufficiency of an application for certification.

687 Section 12. Final disposition of application.--

688 (1) Within 60 days after the date of the issuance of the  
 689 department's recommendation if no hearing is held, or within 60  
 690 days after the date of the receipt of the designated  
 691 administrative law judge's recommended order following a

692 certification hearing, the board shall act upon the application  
 693 by written order, approving certification or denying the  
 694 issuance of a certificate, in accordance with the criteria set  
 695 forth in this act, and stating the reasons for issuance or  
 696 denial. If no hearing has been held, the board shall enter a  
 697 final order approving the proposed nuclear power plant subject  
 698 only to the conditions of certification contained in the  
 699 department's recommendation.

700 (2) Following the holding of a certification hearing, in  
 701 determining whether an application should be approved in whole,  
 702 approved with modifications or conditions, or denied, the board  
 703 shall consider whether, and the extent to which, the location,  
 704 construction, and operation of the proposed nuclear power plant  
 705 will:

706 (a) Meet the electrical energy needs of the state in an  
 707 orderly and timely fashion, as determined by the Public Service  
 708 Commission.

709 (b) Comply with nonprocedural requirements of agencies.

710 (c) Be consistent with applicable local government  
 711 comprehensive plans and in compliance with applicable zoning  
 712 ordinances. To the extent the proposed nuclear power plant is  
 713 not consistent with applicable local government comprehensive  
 714 plans or is not in compliance with local zoning ordinances, the  
 715 board shall then order, through appropriate conditions, such  
 716 reasonable and available methods be utilized as are necessary to  
 717 minimize any inconsistency with applicable future land use  
 718 categories or noncompliance with applicable local zoning or

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719 otherwise make the proposed nuclear power plant compatible with  
720 existing land uses surrounding the site.

721 (d) Effect a reasonable balance between the need for the  
722 nuclear power plant as a means of providing abundant low-cost  
723 electrical energy and the impact upon the public and the  
724 environment resulting from the location, construction, and  
725 operation of the proposed nuclear power plant.

726 (3) Following the conduct of a certification hearing, if  
727 the certificate is denied, the board shall set forth in writing  
728 the actions the applicant would have to take to secure the  
729 board's approval of the application.

730 (4) The issues that may be raised in any hearing before  
731 the board shall be limited to those matters raised in the  
732 certification hearing before the administrative law judge or  
733 raised in the recommended order. Only parties may appear before  
734 the board and shall be subject to the provisions of s. 120.66,  
735 Florida Statutes.

736 (5) In regard to the properties and works of any agency  
737 which is a party to the certification hearing, the board shall  
738 have the authority to decide issues relating to the use, the  
739 connection thereto, or the crossing thereof, for the nuclear  
740 power plant and site and to direct any such agency to execute,  
741 within 30 days after the entry of certification, the necessary  
742 license or easement for such use, connection, or crossing,  
743 subject only to the conditions set forth in such certification.

744 Section 13. Alteration of time limits.--Any time  
745 limitation in this act may be altered by the designated  
746 administrative law judge upon stipulation between the department

747 and the applicant, unless objected to by any party within 5 days  
 748 after notice or for good cause shown by any party.

749 Section 14. Superseded laws, regulations, and  
 750 certification power.--

751 (1) If any provision of this act is in conflict with any  
 752 other provision, limitation, or restriction under any law, rule,  
 753 regulation, or ordinance of this state or any political  
 754 subdivision, municipality, or agency, this act shall govern and  
 755 control, and such law, rule, regulation, or ordinance shall be  
 756 deemed superseded for the purposes of this act.

757 (2) The state hereby preempts the siting, regulation, and  
 758 certification of nuclear power plant sites and nuclear power  
 759 plants as defined in this act.

760 (3) The board may adopt reasonable procedural rules  
 761 pursuant to ss. 120.536(1) and 120.54 to carry out its duties  
 762 under this act and to give effect to the legislative intent that  
 763 this act is to provide an efficient, simplified, centrally  
 764 coordinated, one-stop licensing process.

765 Section 15. Effect of certification.--

766 (1) Subject to the conditions set forth in the  
 767 certification, any certification signed by the Governor shall  
 768 constitute the sole license of the state and any agency as to  
 769 the approval of the site and the construction and operation of  
 770 the proposed nuclear power plant, except for the issuance of  
 771 department licenses required under any federally delegated or  
 772 approved permit program and except as otherwise provided in  
 773 subsection (4).

774       (2) (a) The certification shall authorize the applicant  
775 named in the certification to construct and operate the proposed  
776 nuclear power plant, subject only to the conditions of  
777 certification set forth in the certification, and except for the  
778 issuance of department licenses or permits required under any  
779 federally delegated or approved permit program.

780       (b) Except as provided in subsection (4), the  
781 certification may include conditions that constitute variances,  
782 exemptions, or exceptions from nonprocedural requirements of the  
783 department or any agency which were expressly considered during  
784 the proceeding unless waived by the agency as provided below and  
785 which otherwise would be applicable to the construction and  
786 operation of the proposed nuclear power plant. No variance,  
787 exemption, exception, or other relief shall be granted from a  
788 state statute or rule for the protection of endangered or  
789 threatened species, aquatic preserves, Outstanding National  
790 Resource Waters, and Outstanding Florida Waters, or for the  
791 disposal of hazardous waste, except to the extent authorized by  
792 the applicable statute or rule, or upon a finding by the board  
793 that certifying the nuclear power plant at the site proposed by  
794 the applicant overrides the public interest protected by the  
795 statute or rule from which relief is sought. Each party shall  
796 notify the applicant and other parties no more than 60 days  
797 after the application is determined sufficient of any  
798 nonprocedural requirements not specifically listed in the  
799 application from which a variance, exemption, exception, or  
800 other relief is necessary in order for the board to certify any  
801 nuclear power plant proposed for certification. Failure of such

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802 notification by an agency shall be treated as a waiver from  
803 nonprocedural requirements of the department or any other  
804 agency. However, no variance shall be granted from standards or  
805 regulations of the department applicable under any federally  
806 delegated or approved permit program, except as expressly  
807 allowed in such program.

808 (c) To the extent any condition of certification imposed  
809 pursuant to this act is inconsistent with or otherwise in  
810 conflict with any requirement of federal law, regulation, or  
811 license regulating construction and operation of a nuclear power  
812 plant certified under this act, then such condition of  
813 certification shall be automatically modified to conform to such  
814 federal requirement or be superseded by such federal  
815 requirement. The state shall not enforce compliance with any  
816 such federal requirement under this act, except to the extent  
817 the state is authorized to enforce such condition under federal  
818 law.

819 (3) The certification shall be in lieu of any license,  
820 permit, certificate, or similar document required by any agency  
821 pursuant to, but not limited to, chapter 125, chapter 161,  
822 chapter 163, chapter 166, chapter 186, chapter 253, chapter 298,  
823 chapter 370, chapter 373, chapter 376, chapter 380, chapter 381,  
824 chapter 387, chapter 403, except for permits issued pursuant to  
825 s. 403.0885, Florida Statutes, and except as provided in s.  
826 403.509(3) and (6), Florida Statutes, or chapter 404, Florida  
827 Statutes, the Florida Transportation Code, or 33 U.S.C. s. 1341.

828 (4) This act shall not affect in any way the right of any  
829 local government to charge appropriate fees or require that

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830 construction be in compliance with applicable building  
831 construction codes, provided that in the event of a conflict  
832 between requirements of local building construction codes and  
833 federal requirements, such federal requirements shall supersede  
834 local building construction codes.

835 (5) (a) A nuclear power plant certified pursuant to this  
836 act shall comply with rules adopted by the department subsequent  
837 to the issuance of the certification which prescribe new or  
838 stricter criteria, to the extent that the rules are applicable  
839 to nuclear power plants. Except when express variances,  
840 exceptions, exemptions, or other relief have been granted,  
841 subsequently adopted rules which prescribe new or stricter  
842 criteria shall operate as automatic modifications to  
843 certifications. A holder of a certification issued under this  
844 act may apply to the board for relief from such rules to the  
845 extent relief is available to other electrical power plants in  
846 the state. Any such relief shall be granted in the same manner  
847 as provided for the granting of relief at the time of the  
848 original certification, as provided for in this act.

849 (b) Upon written notification to the department, any  
850 holder of a certification issued pursuant to this act may choose  
851 to operate the certified nuclear power plant in compliance with  
852 any rule subsequently adopted by the department which prescribes  
853 criteria more lenient than the criteria required by the terms  
854 and conditions in the certification which are not site-specific.

855 (c) No term or condition of certification shall be  
856 interpreted to preclude the postcertification exercise by any  
857 party of whatever procedural rights it may have under chapter

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858 120, Florida Statutes, including those related to rulemaking  
859 proceedings.

860 Section 16. Notice; costs of proceeding.--

861 (1) The following notices are to be published by the  
862 applicant:

863 (a) A notice of filing of the application, which shall be  
864 published as specified in subsection (2) within 15 days after  
865 the application has been determined complete. Such notice shall  
866 give notice of the provisions of section 15(1) and (2).

867 (b) Notice of issuance of the department's agency report  
868 and recommendation, which shall be published as specified in  
869 subsection (2) no later than 10 days after the report and  
870 recommendation are issued by the department.

871 (c) If a certification hearing is to be conducted, then  
872 notice published as specified in subsection (2).

873 (d) Notice of modification when required by the  
874 department, based on whether the requested modification of  
875 certification will significantly increase impacts to the  
876 environment or the public. Such notice shall be published as  
877 specified under subsection (2):

878 1. Within 21 days after receipt of a request for  
879 modification, except that the newspaper notice shall be of a  
880 size as directed by the department commensurate with the scope  
881 of the modification.

882 2. If a hearing is to be conducted in response to the  
883 request for modification, then notice shall be provided as  
884 specified in paragraph (c).



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885 (e) Notice of a supplemental application, which shall be  
886 published as follows:

887 1. Notice of receipt of the supplemental application shall  
888 be published as specified in paragraph (a).

889 2. Notice of the certification hearing shall be published  
890 as specified in paragraph (d).

891 (2) Notices provided by the applicant shall be published  
892 in newspapers of general circulation within the county or  
893 counties in which the proposed nuclear power plant will be  
894 located. The newspaper notices shall be at least one-half page  
895 in size in a standard size newspaper or a full page in a tabloid  
896 size newspaper and published in a section of the newspaper other  
897 than the legal notices section. These notices shall include a  
898 map generally depicting the project and all associated  
899 facilities corridors, including associated transmission lines,  
900 if any. A newspaper of general circulation shall be the  
901 newspaper which has the largest daily circulation in that county  
902 and has its principal office in that county. If the newspaper  
903 with the largest daily circulation has its principal office  
904 outside the county, the notices shall appear in both the  
905 newspaper having the largest circulation in that county and in a  
906 newspaper authorized to publish legal notices in that county.

907 (3) All notices published by the applicant shall be paid  
908 for by the applicant and shall be in addition to the application  
909 fee.

910 (4) The department shall:

911 (a) Publish in the manner specified in chapter 120,  
912 Florida Statutes, notices of the filing of the application or

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913 supplemental application; of the department's report and  
914 recommendation; the certification hearing, if one is to be held;  
915 the hearing before the board; and stipulations, proposed agency  
916 action, or petitions for modification.

917 (b) Provide copies of those notices to any persons who  
918 have requested to be placed on the departmental mailing list for  
919 this purpose.

920 (5) The applicant shall pay those expenses and costs  
921 associated with the conduct of the hearings and the recording  
922 and transcription of the proceedings.

923 Section 17. Revocation or suspension of  
924 certification.--Any certification may be revoked or suspended:

925 (1) For any material false statement in the application or  
926 in the supplemental or additional statements of fact or studies  
927 required of the applicant when a true answer would have  
928 warranted the board's refusal to recommend a certification in  
929 the first instance.

930 (2) For failure to comply with the terms or conditions of  
931 the certification.

932 (3) For violation of the provisions of this act or rules  
933 or orders issued under this act.

934 Section 18. Review.--Proceedings under this act shall be  
935 subject to judicial review in the Florida Supreme Court.  
936 Separate appeals of the certification order issued by the board  
937 and of any department permit issued pursuant to a federally  
938 delegated or approved permit program shall be consolidated for  
939 purposes of judicial review. Review on appeal shall be based  
940 solely on the record before the board and briefs to the court

941 and shall be limited to determining whether the certification  
 942 order conforms to the constitution and laws of this state and  
 943 the United States and is within the authority of the board under  
 944 this act. The Supreme Court shall proceed to hear and determine  
 945 the action as expeditiously as practicable and give the action  
 946 precedence over other matters not accorded similar precedence by  
 947 law.

948 Section 19. Enforcement of compliance.--Failure to obtain  
 949 a certification or to comply with the conditions of  
 950 certification or this act shall constitute a violation of  
 951 chapter 403, Florida Statutes.

952 Section 20. Availability of information.--The department  
 953 shall make available for public inspection and copying during  
 954 regular office hours, at the expense of any person requesting  
 955 copies, any information filed or submitted to the department  
 956 pursuant to this act.

957 Section 21. Modification of certification.--

958 (1) A certification may be modified after issuance in any  
 959 one of the following ways:

960 (a) The board may delegate to the department the authority  
 961 to modify specific conditions in the certification.

962 (b) The department may modify the terms and conditions of  
 963 the certification if no party to the certification hearing  
 964 objects in writing to such modification within 45 days after  
 965 notice by mail to such party's last address of record and if no  
 966 other person whose substantial interests will be affected by the  
 967 modification objects in writing within 30 days after issuance of

968 public notice. If objections are raised, the applicant may file  
 969 a petition for modification pursuant to paragraph (c).

970 (c) Any petition for modification shall be filed with the  
 971 department and the Division of Administrative Hearings. A  
 972 petition for modification may be filed by the applicant or the  
 973 department setting forth:

- 974 1. The proposed modification.
- 975 2. The factual reasons asserted for the modification.
- 976 3. The anticipated effects of the proposed modification on  
 977 the applicant, the public, and the environment.

978 (2) Petitions filed pursuant to this section shall be  
 979 disposed of in the same manner as an application, but with time  
 980 periods established by the administrative law judge commensurate  
 981 with the significance of the modification requested.

982 (3) Any agreement or modification under this section must  
 983 be in accordance with the terms of this act. No modification to  
 984 a certification shall be granted that constitutes a variance  
 985 from standards or regulations of the department applicable under  
 986 any federally delegated or approved permit program, except as  
 987 expressly allowed in such program.

988 Section 22. Supplemental applications for sites certified  
 989 for ultimate site capacity.--

990 (1) (a) The department shall adopt rules governing the  
 991 processing of supplemental applications for certification of the  
 992 construction and operation of nuclear power plants to be located  
 993 at sites which have been previously certified for an ultimate  
 994 site capacity pursuant to this act. Supplemental applications  
 995 shall be limited to nuclear power plants using the fuel type

996 previously certified for that site. The rules adopted pursuant  
 997 to this section shall include provisions for:

998 1. Prompt appointment of a designated administrative law  
 999 judge.

1000 2. The contents of the supplemental application.

1001 3. Resolution of disputes as to the completeness and  
 1002 sufficiency of supplemental applications by the designated  
 1003 administrative law judge.

1004 4. Public notice of the filing of the supplemental  
 1005 applications.

1006 5. Time limits for prompt processing of supplemental  
 1007 applications.

1008 6. Final disposition by the board within 215 days after  
 1009 the filing of a complete supplemental application.

1010 (b) The time limits shall not exceed any time limitation  
 1011 governing the review of initial applications for site  
 1012 certification pursuant to this act, it being the legislative  
 1013 intent to provide shorter time limitations for the processing of  
 1014 supplemental applications for nuclear power plants to be  
 1015 constructed and operated at sites which have been previously  
 1016 certified for an ultimate site capacity.

1017 (c) Any time limitation in this section or in rules  
 1018 adopted pursuant to this section may be altered by the  
 1019 designated administrative law judge upon stipulation between the  
 1020 department and the applicant, unless objected to by any party  
 1021 within 5 days after notice or for good cause shown by any party.

1022 The parties to the proceeding shall adhere to the provisions of

1023 chapter 120, Florida Statutes, and this act in considering and  
 1024 processing such supplemental applications.

1025 (2) Supplemental applications shall be reviewed as  
 1026 provided in this act, except that the time limits provided in  
 1027 this section shall apply to such supplemental applications.

1028 (3) For the purposes of this act, the term "ultimate site  
 1029 capacity" means the maximum generating capacity for a site as  
 1030 certified by the board.

1031 Section 23. Fees; disposition.--The department shall  
 1032 charge the applicant the following fees, as appropriate, which  
 1033 shall be paid into the Florida Permit Fee Trust Fund:

1034 (1) An application fee, which shall not exceed \$200,000.  
 1035 The fee shall be fixed by rule on a sliding scale related to the  
 1036 size, type, ultimate site capacity, increase in generating  
 1037 capacity proposed by the application, or the number and size of  
 1038 local governments in whose jurisdiction the nuclear power plant  
 1039 is located.

1040 (a) Sixty percent of the fee shall go to the department to  
 1041 cover any costs associated with reviewing and acting upon the  
 1042 application, to cover any field services associated with  
 1043 monitoring construction and operation of the facility, and to  
 1044 cover the costs of the public notices published by the  
 1045 department.

1046 (b) Twenty percent of the fee or \$25,000, whichever is  
 1047 greater, shall be transferred to the Administrative Trust Fund  
 1048 of the Division of Administrative Hearings of the Department of  
 1049 Management Services.

1050        (c) Upon written request with proper itemized accounting  
 1051 within 90 days after final agency action by the board or  
 1052 withdrawal of the application, the department shall reimburse  
 1053 the Department of Community Affairs, the Fish and Wildlife  
 1054 Conservation Commission, any water management district created  
 1055 pursuant to chapter 373, Florida Statutes, regional planning  
 1056 council, and local government in the jurisdiction of which the  
 1057 proposed nuclear power plant is to be located, and any other  
 1058 agency from which the department requests special studies  
 1059 pursuant to this act. Such reimbursement shall be authorized for  
 1060 the preparation of any studies required of the agencies by this  
 1061 act, for agency travel and per diem to attend any hearing held  
 1062 pursuant to this act, and for local governments to participate  
 1063 in the proceedings. In the event the amount available for  
 1064 allocation is insufficient to provide for complete reimbursement  
 1065 to the agencies, reimbursement shall be on a prorated basis.

1066        (d) If any sums are remaining, the department shall retain  
 1067 them for its use in the same manner as is otherwise authorized  
 1068 by this act; provided, however, that if the certification  
 1069 application is withdrawn, the remaining sums shall be refunded  
 1070 to the applicant within 90 days after withdrawal.

1071        (2) A certification modification fee, which shall not  
 1072 exceed \$30,000. The fee shall be submitted to the department  
 1073 with a formal petition for modification to the department. This  
 1074 fee shall be established, disbursed, and processed in the same  
 1075 manner as the application fee in subsection (1), except that the  
 1076 Division of Administrative Hearings shall not receive a portion  
 1077 of the fee unless the petition for certification modification is

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1078 referred to the Division of Administrative Hearings for hearing.  
 1079 If the petition is so referred, only \$10,000 of the fee shall be  
 1080 transferred to the Administrative Trust Fund of the Division of  
 1081 Administrative Hearings of the Department of Management  
 1082 Services. The fee for a modification by agreement shall be  
 1083 \$10,000, to be paid upon the filing of the request for  
 1084 modification. Any sums remaining after payment of authorized  
 1085 costs shall be refunded to the applicant within 90 days after  
 1086 issuance or denial of the modification or withdrawal of the  
 1087 request for modification.

1088 (3) A supplemental application fee, not to exceed \$75,000,  
 1089 to cover all reasonable expenses and costs of the review,  
 1090 processing, and proceedings of a supplemental application. This  
 1091 fee shall be established, disbursed, and processed in the same  
 1092 manner as the certification application fee in subsection (1),  
 1093 except that only \$20,000 of the fee shall be transferred to the  
 1094 Administrative Trust Fund of the Division of Administrative  
 1095 Hearings of the Department of Management Services.

1096 Section 24. Exclusive forum for determination of need.--

1097 (1) On request by an applicant, the Public Service  
 1098 Commission shall begin a proceeding to determine the need for a  
 1099 nuclear power plant subject to this act. The commission shall  
 1100 publish a notice of the proceeding in a newspaper of general  
 1101 circulation in each county in which the proposed nuclear power  
 1102 plant will be located. The notice shall be at least one-quarter  
 1103 of a page and published at least 45 days prior to the scheduled  
 1104 date for the proceeding.



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1105       (2) (a) The commission shall hold a hearing within 90 days  
1106 after the filing of the petition and shall grant or deny the  
1107 petition to determine need within 135 days after the date of the  
1108 filing of the petition. The commission shall be the sole forum  
1109 for the determination of this matter and the issues addressed in  
1110 the petition, which accordingly shall not be reviewed in any  
1111 other forum. In making its determination to either grant or deny  
1112 a petition for determination of need, the commission shall  
1113 consider the need for electric system reliability and integrity,  
1114 including fuel diversity, the need for base-load generating  
1115 capacity, and the need for adequate electricity at a reasonable  
1116 cost.

1117       (b) The applicant's petition shall include:

1118       1. A description of the need for the generation capacity.

1119       2. A description of how the proposed nuclear power plant  
1120 will enhance the reliability of electric power production within  
1121 the state by improving the balance of power plant fuel diversity  
1122 and reducing Florida's dependence on fuel oil and natural gas.

1123       3. A description of and a nonbinding estimate of the cost  
1124 of the nuclear power plant.

1125       4. The annualized base revenue requirement for the first  
1126 12 months of operation of the nuclear power plant.

1127       (c) The commission shall grant a petition on a finding  
1128 that the nuclear power plant will:

1129       1. Provide needed base-load capacity.

1130       2. Enhance the reliability of electric power production  
1131 within the state by improving the balance of power plant fuel

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1132 diversity and reducing Florida's dependence on fuel oil and  
1133 natural gas.

1134 3. Provide a cost-effective, although not necessarily the  
1135 least-cost alternative source of power, taking into account the  
1136 need to improve the balance of fuel diversity, reduce Florida's  
1137 dependence on fuel oil and natural gas, mitigate air emission  
1138 effects within the state, and contribute to the long-term  
1139 stability and reliability of the electric grid.

1140 (3) No provision of rule 25-22.082, Florida Administrative  
1141 Code, shall be applicable to a nuclear power plant sited under  
1142 this act, including provisions for cost recovery, and an  
1143 applicant shall not otherwise be required to secure competitive  
1144 proposals for power supply prior to making application under  
1145 this act or receiving a determination of need from the  
1146 commission.

1147 (4) The commission's determination of need for a nuclear  
1148 power plant shall create a presumption of public need and  
1149 necessity and shall serve as the commission's report. An order  
1150 entered pursuant to this section constitutes final agency action  
1151 and is not subject to review under chapter 120, Florida  
1152 Statutes. A petition for reconsideration of a final order on a  
1153 petition for need determination shall be filed within 5 days  
1154 after the date of such order. Within 30 days after the  
1155 commission order or a decision denying a request for  
1156 reconsideration or, if the request for reconsideration is  
1157 granted, within 30 days after the commission issues its decision  
1158 on reconsideration, an adversely affected party may petition for  
1159 judicial review in the Florida Supreme Court. The petition for

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1160 review shall be served upon the executive director of the  
1161 commission personally or by service at the office of the  
1162 commission. Review on appeal shall be based solely on the record  
1163 before the commission and briefs to the court and shall be  
1164 limited to determining whether the order issued pursuant to  
1165 subsection (2), or the order on reconsideration, conforms to the  
1166 constitution and laws of this state and the United States and is  
1167 within the authority of the commission under this section.

1168 Inasmuch as delay in the determination of need will delay siting  
1169 of a nuclear power plant or diminish the opportunity for savings  
1170 to customers under the federal Energy Policy Act of 2005, the  
1171 Supreme Court shall proceed to hear and determine the action as  
1172 expeditiously as practicable and give the action precedence over  
1173 matters not accorded similar precedence by law.

1174 (5) After a petition for determination of need has been  
1175 granted, the right of a utility to recover any costs incurred  
1176 prior to commercial operation, including, but not limited to  
1177 costs associated with the siting, design, licensing, or  
1178 construction of the plant, shall not be subject to challenge  
1179 unless and only to the extent the commission finds, based on  
1180 clear and convincing evidence adduced at a hearing initiated by  
1181 the commission under s. 120.57, Florida Statutes, that the  
1182 utility was imprudent in incurring costs significantly in excess  
1183 of the initial, nonbinding estimate provided by the utility  
1184 pursuant to this act. Proceeding with the construction of the  
1185 nuclear power plant following an order by the commission  
1186 approving the need for the nuclear power plant under this act  
1187 shall not constitute or be evidence of imprudence. Imprudence

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1188 also shall not include any cost increases due to events beyond  
1189 the utility's control, including, but not limited to:

1190 (a) Delays in obtaining necessary governmental agency  
1191 permits or licenses.

1192 (b) Delays due to litigation.

1193 (c) Increases in equipment, engineering, material, or  
1194 construction costs.

1195 (d) Increases in costs due to inflation or other economic  
1196 factors.

1197 (e) Increases in costs due to laws, regulations, or  
1198 regulatory conditions imposed by a state or federal governmental  
1199 agency or court following the issuance of a need determination  
1200 order by the commission.

1201  
1202 Further, a utility's right to recover costs associated with a  
1203 nuclear power plant may not be raised in any other forum or in  
1204 the review of proceedings in such other forum. Appeals shall be  
1205 governed in accordance with subsection (4). Costs incurred prior  
1206 to commercial operation shall be recovered pursuant to chapter  
1207 366, Florida Statutes.

1208 Section 25. This act shall take effect upon becoming law.